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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

8 TK POWER, INC., No. C-04-5098 EMC
9 Plaintiff,

10 v. ORDER RE MEET AND CONFER
11 TEXTRON, INC.,
12 Defendant.

15 As stated at the hearing on September 28, 2005, the parties' previous meet and confer efforts
16 with respect to the discovery motions filed by Plaintiff TK Power, Inc. on September 19, 2005, *see*
17 Docket Nos. 33, 36, 42, were inadequate, and the Court therefore orders the parties to further meet
18 and confer. The meet and confer shall be in person, and either lead trial counsel or counsel with *full*
19 *and complete* authority on discovery matters shall participate. The parties are forewarned that the
20 Court expects the parties to meet and confer in good faith and that it will not look kindly upon
21 unnecessary posturing by either party. Any party that takes a position that is not substantially
22 justified may be subject to sanctions. The Court reiterates that disputes over ambiguity in the terms
23 of written discovery requests should be resolved, blanket objections are improper, request for
24 admissions must be answered completely and not partially, consistent with Rule 36(a), and any
25 claim of burden under Rule 26(b)(2) must be supported by specific facts and evidence.

In lieu of any opposition or reply briefs, the parties shall file a joint letter on October 5, 2005, discussing the results of their meet and confer. The joint letter should reflect when the in-person meet and confer took place, how long it lasted, and who participated. The joint letter should

1 also inform the Court of the issues on which the parties were able to which agreement and the issues,
2 if any, still in need of resolution. For each remaining dispute, the parties should provide brief
3 statements in support of their respective positions, including citation to any applicable legal
4 authority. The parties should use the attached template for their joint letter.

5 The Court shall at this time keep TK Power's discovery motions set for hearing on
6 November 2, 2005. The Court reserves ruling on TK Power's request for sanctions.

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8 IT IS SO ORDERED.
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10 Dated: September 28, 2005


11 EDWARD M. CHEN
12 United States Magistrate Judge

EXHIBIT 1 -- TEMPLATE FOR JOINT LETTER

[Date]

VIA [METHOD]¹

Honorable Edward M. Chen
United States Magistrate Judge
U.S. District Court
450 Golden Gate Avenue
San Francisco, CA 94102

Re: [Case number and case name]

Dear Judge Chen:

The parties have met and conferred regarding several discovery disputes. The meet and confer took place on [date], with the participation of [Plaintiff's attorney], representing Plaintiff, and [Defendant's attorney], representing Defendant. The meet and confer was in person and lasted approximately [minutes or hours].

I. RESOLVED DISCOVERY DISPUTES

The parties reached agreement on several discovery disputes. Those agreements are as follows:

[Description of Agreement No. 1.]

[Description of Agreement No. 2.]

[Description of Agreement No. 3, etc.]

II. REMAINING DISCOVERY DISPUTES

The parties were not able to reach agreement on the remaining discovery disputes. Those remaining disputes and the parties' respective positions are provided below. Copies of the relevant discovery requests and responses are attached as Exhibits [numbers].²

A. [Dispute No. 1]

1. [Position of Party Seeking Discovery]³

¹ Note for Counsel: The Court may request a courtesy copy of the joint letter to be faxed to chambers. If so, counsel should still file a copy of the joint letter with the Clerk of the Court. The letter faxed to chambers is a courtesy copy only. *As a general matter, parties may not fax any papers to the Court without prior leave of the Court.*

² Note for Counsel: Unnecessary exhibits should not be attached.

³ Note for Counsel: Each party's position should be stated succinctly (e.g., in one paragraph). The purpose of the joint letter is to inform the Court of the essence of the dispute in lieu of full briefing. The Court may order full briefing and/or a hearing if necessary.

1 2. [Position of Party Opposing Discovery]

2 B. [Dispute No. 2]

3 1. [Position of Party Seeking Discovery]

4 2. [Position of Party Opposing Discovery]

5 C. [Dispute No. 3]

6 1. [Position of Party Seeking Discovery]

7 2. [Position of Party Opposing Discovery]

8 D. [Dispute No. 4, etc.]

9 1. [Position of Party Seeking Discovery]

10 2. [Position of Party Opposing Discovery]

11 Sincerely,

13 [Plaintiff's counsel]
14 Attorney for Plaintiff

13 [Defendant's counsel]
14 Attorney for Defendant